

UNITED STATES OF AMERICA  
DISTRICT OF MASSACHUSETTS

# **DEFENDANT'S MOTION FOR PRETRIAL RELEASE**

Now comes the Defendant, pursuant to Rule 46 of the Federal Rules of Criminal Procedure, and hereby moves this Honorable Court for pretrial release. Mr. Scibelli was arrested on July 2, 2019 and was initially brought before this Court on the same date to respond to a criminal complaint. The Government moved for pretrial detention and Mr. Scibelli did not offer opposition at that time. On July 11, 2019, the Government obtained an indictment which alleges a single count of collection of extensions of credit by extortionate means in violation of 18 U.S.C. §894(a). On July 16, 2019, Mr. Scibelli was arraigned before this Court. In its motion for detention, the Government advances two separate reasons for its request – 1) to reasonably assure the Defendant's presence and 2) to assure the safety of any other person and the community. The offense charged does not carry any minimum-mandatory term of imprisonment. The maximum penalty is twenty years. At the initial appearance, the Government represented that the charge carried a base offense level of 22, which according to the sentencing guidelines, carries a potential period of incarceration of between 41 to 51 months. Mr. Scibelli now moves this Court for pretrial release and submits that he does not present any risk of flight and does not present any real danger to any person or to the community. For the following reasons, Mr. Scibelli requests that his Motion be granted.

Anthony Scibelli is lifelong resident of Springfield, MA and has substantial roots in the city. He is fifty-one years old and only has ties to Springfield. He presents no risk of flight as he does not possess a passport and does not have the financial means to flee the area. Mr. Scibelli was born in Springfield where he attended public schools eventually graduating from Classical High School in 1986. From there, he pursued classes at Springfield Technical Community College. Mr. Scibelli's entire network of family and friends reside in Springfield. At the time of his arrest, Mr. Scibelli was living in the Scibelli family home located at 15 Pinecrest Drive, Springfield. See Exhibit A (data concerning family home) Mr. Scibelli has lived at the same address for the past seventeen years. He lives at the Pinecrest address along with his mother, Kathleen Fauscher, who is eighty-three years old, and his older sister, Josie Scibelli. Josie Scibelli is a supervisor of the medical secretaries at New England Orthopedics and has worked at that facility for the past thirty years. 15 Pinecrest Drive consists of a single-family home and is owned by Diane Wytrych (née Scibelli), Anthony's older sister. Diane also works in the medical field and has worked for AdvancedMD for the past fourteen years. Mr. Scibelli's older brother, Mario, is also currently living at the Pinecrest address for the time being.

Mr. Scibelli's family unit is close-knit and extremely supportive of Anthony and his current legal predicament. They have banded together to support him and have retained counsel to defend the case. Mr. Scibelli's arrest and pretrial detention have caused a major upheaval in the Scibelli home. See Attached B (letters of support). For the past several years, the Scibelli family has relied on Anthony to take care of their aging mother, Kathleen, who is a cancer survivor and suffers from dementia and hypertension. Mr. Scibelli does not work outside of the home and has collected disability, due to various medical conditions, for approximately the past fifteen years. Mr. Scibelli has always been Kathleen's primary caretaker. The Scibelli family relies on

Anthony to attend to Kathleen's medical needs and he has always been the one to provide her with medications, bring her to medical appointments, cook her meals, and look after her each day.

Mr. Scibelli has never been incarcerated before and the last month or so has been extremely difficult because of his many medical conditions and ailments. Mr. Scibelli has diabetes which is extremely difficult for him to control. He requires four shots of insulin per day. Since being detained, his blood sugar has shot to dangerous levels. Mr. Scibelli also suffers from hypertension which he takes medication for each day. Mr. Scibelli has also been diagnosed with diverticulitis and several years ago underwent surgery to remove seven inches of his colon. This condition flares up periodically and Mr. Scibelli requires medication daily and close medical supervision. In addition, Mr. Scibelli suffers from avascular necrosis which causes serious problems in his extremities. Mr. Scibelli has very little sensation in both feet. Mr. Scibelli also suffers from chronic positional vertigo. Moreover, he has had surgeries on both knees and his shoulders and back are usually in pain. Mr. Scibelli must also use a special machine each night to try and control his severe sleep apnea which has caused him to require hospitalization in the past. Since being incarcerated, the staff at Wyatt Detention Center have moved Mr. Scibelli to a special unit in order to try and stabilize his medical condition. He takes approximately twelve doses of medication per day. Before he was arrested, he was scheduled to undergo surgery for a hernia. Since being incarcerated, Mr. Scibelli has lost approximately thirty pounds. If he continues to be detained, his medical conditions will worsen.

Mr. Scibelli's prior history with the criminal justice system, though many years ago, demonstrates that he can and will abide by any conditions of release imposed upon him by this Court. In 2004, Mr. Scibelli was charged in Hampden Superior Court (#0479CR00213) with

narcotics offenses which carried the potential of minimum-mandatory time. A \$10,000 bail was set and posted. Mr. Scibelli remained out on bail awaiting trial for approximately one year. Ultimately, he pled guilty and received probation for a term of three years. He was successful on probation without a single infraction or violation. Probation was ultimately terminated and he was discharged in 2007. In the early 1990's, Mr. Scibelli received a two-year probation term in Hampden Superior Court and for assault and battery and producing a false statement. In those cases, Mr. Scibelli abided by the term of his release and was never violated. It is evident that Mr. Scibelli can and will abide by any terms of release ordered by this Court because he has done so before.

In its motion for pretrial detention, the Government posits that detention is required to reasonably assure the safety of any other person and the community. However, the allegations in this case were made by an individual who has known, and been friendly with, Mr. Scibelli for nearly all his life. Mr. Scibelli's accuser willingly came forward to complain and in so doing clearly demonstrated, during his many interviews with authorities, that he does not fear Mr. Scibelli but rather views him with contempt. Regardless any remote possibility of potential harm to either a specific person or to the community can easily be remedied with the use of electronic monitoring.

Mr. Scibelli is an extremely dedicated son and brother. Each day, he begins and ends the day by assuring that his elderly mother is taken care of. He provides a tremendous amount of support and comfort to those he loves. He has been released on bail in the past, and ordered to be on probation, in the past and was clearly able to follow the court orders. He will do so again should the grant his release.

“In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” United States v. Salerno, 481 U.S. 739, 747 (1987). Detention shall be ordered only where the Court finds that “no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community.” 18 U.S.C. §3142(e). In this case, Mr. Scibelli suggests that the following conditions satisfy the purposes of bail –

- 1) Allow Diane Wytrych to post a \$50,000 surety bond to assure Mr. Scibelli’s presence at all future Court proceedings, the amount of which is secured by her property interest in the family home located at 15 Pinecrest Drive, Springfield.
- 2) Electronic monitoring.
- 3) Report to probation as directed.

BY: /s/ Nikolas Andreopoulos

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**CERTIFICATE OF SERVICE**

I, Nikolas Andreopoulos, Esq., do hereby certify that I have filed the foregoing with the Clerk of the United States District Court for the District of Massachusetts via the CM/ECF system this July 8, 2019, and that a copy will be sent electronically to the registered participant(s).

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